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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/497,244      | 02/03/2000  | Russell Jarvors      | 3910.164            | 7255             |

7590                    01/27/2004

LAW OFFICE OF RICHARD B. KLAR  
875 AVENUE OF THE AMERICAS  
SUITE 2301  
NEW YORK, NY 10001

[REDACTED] EXAMINER

DALENCOURT, YVES

| ART UNIT | PAPER NUMBER |
|----------|--------------|
| 2635     | 30           |

DATE MAILED: 01/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                 |                  |
|------------------------------|-----------------|------------------|
| <b>Office Action Summary</b> | Application No. | Applicant(s)     |
|                              | 09/497,244      | JARVORS, RUSSELL |
|                              | Examiner        | Art Unit         |
|                              | Yves Dalencourt | 2635             |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 27 October 2003.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 2,24 and 30 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 2,24 and 30 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.
 

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. §§ 119 and 120

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.
- 13) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - a) The translation of the foreign language provisional application has been received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

#### Attachment(s)

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ .
- 4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_ .
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_ .

## DETAILED ACTION

This office action is responsive to amendment filed on 10/27/03.

### ***Response to Amendment***

The examiner has acknowledged the amended claims 2, 24, and 30, and the cancellation of claims 1, 3 – 23, 25 – 29, and 31 – 36.

### ***Response to Arguments***

Applicant's arguments filed on 10/27/03 have been fully considered but they are not persuasive.

In response to Applicant's argument that one skilled in the art would not have considered Sanders et al's reference in attempting to create a toy with a toy security device (on the last of the amendment), the examiner recognizes that reference cannot be arbitrarily combined and that there must be some reason why one skilled in the art would be motivated to make the proposed combination of primary reference and applicant's admitted prior art. *In re Nomiya*, 184 USPQ 607 (CCPA 1975). However, there is no requirement that a motivation to make the modification be expressly articulated. The test for combining references is what the combination of disclosures taken as a whole would suggest to one of ordinary skill in the art. *In re McLaughlin*, 170 USPQ 209 (CCPA 1971). In this case, Sanders et al teaches all the limitations, except for a toy, and Applicant admits that it is desired in the toy vehicle business to replicate as much of the real vehicle as possible. Sanders et al shows real vehicle operations. Therefore, it would be obvious to replicate real vehicle operations as evidenced by

Applicant's admitted prior art for the purpose of providing a toy vehicle security alarm system.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 2, 24, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sanders et al (US 4,754,255; hereinafter Sanders) in view of Applicant's admitted prior art (page 1 of the specification).

Regarding claims 2, 24, and 30, Sanders et al teaches a user identifying vehicle control and security device which comprises a security alarm device ( figure 3 ) comprising a controller ( 38, figure 3 ) and having an armed state and an unarmed state, the controller being responsive to a signal input to at least one input thereto cause the security alarm device to selectively assume the armed and unarmed states ( paragraph bridging col. 4 & col. 5 ) ; a signaling device coupled to the controller and responsive thereto to provide an audio or visual alarm signal ( paragraph bridging col. 10 & col. 11 ); the controller causing the signaling device to provide an alarm signal with a change of state of the security alarm device between its armed state and its unarmed state ( col. 5, lines 14 - 43 ).

Sanders et al teaches all the limitations, but fails to specifically teach a toy. Applicant admits it is desired in the toy vehicle business to replicate as much of the real

vehicle as possible. Sanders shows real vehicle operations as mentioned above. Therefore, it would be obvious to replicate real vehicle operations as evidenced by admitted prior art for the purpose of providing a toy vehicle security alarm system.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

#### Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yves Dalencourt whose telephone number is (703) 308-8547. The examiner can normally be reached on M-TH 7:30AM - 6: 30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (703) 305-4704. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

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872-9314 for regular communications and (703) 872-9314 for After Final  
communications.

Any inquiry of a general nature or relating to the status of this application or  
proceeding should be directed to the receptionist whose telephone number is (703) 305-  
4700.

Yves Dalencourt

*Y.D.*

January 12, 2004

MICHAEL HORABIK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600

*Michael Horabik*